

REMARKS

Claims 1-34, 36-56, 69, 70, 75, and 77-80 are pending.

A. ELECTION WITH TRAVERSE

The Examiner has required an election between indicated Inventions I-II.

We elect with traverse Invention I, which the Examiner indicates is consonant with Claims 1-34, 36-56, 69, 70, 75, and 80.

B. REQUEST FOR RECONSIDERATION: ELECTION/RESTRICTION REQUIREMENT IS IMPROPER

The Examiner asserts that the indicated “inventions” are related but distinct because they cannot overlap in scope and are therefore mutually exclusive: “In the instant case, the processes each have different steps, which are not found in the other, thus not overlapping scope.” Office Action, page 2.

We do not agree with the Examiner’s analysis of the designated Inventions’ scope—the inventions, as defined by the Examiner, are not “mutually exclusive” and could overlap in scope.

Specifically, if Invention I requires purchases that must be made during a visit, and Invention II does not require purchases during a visit, that does not mean that the designated inventions must be mutually exclusive. For example, neither claim 77 nor Invention II (as defined by the Examiner) prohibits someone from making purchases during a visit. Thus, Invention II must encompass embodiments in which purchases are made during a visit. Merely because this limitation is not explicitly recited does not mean that requiring purchases during a visit cannot fall within the scope of Invention II. For instance, Claim 77 includes a step of receiving from a customer a product identifier at a point of sale, which could be received during a visit of a customer to a retailer.

Accordingly, the Examiner has failed to establish that the designated “inventions” are distinct because the Examiner’s argument for why the inventions cannot overlap in scope fails logically. We respectfully request that the Examiner reconsider and withdraw the election/restriction requirement.

C. CONCLUSION

It is submitted that all of the claims are in condition for allowance. The Examiner's reconsideration of the current election/restriction is respectfully requested.

If the Examiner has any questions regarding the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Respectfully submitted,

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Date



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